

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

MICHAEL J. MONROE

Plaintiff,

v.

JOHN "BAM-BAM" DOE,

Defendant.

07 Civ. 4100 (SCR)

ORDER

STEPHEN C. ROBINSON, United States District Judge:

After filing an initial complaint against John "Boom-Boom" Doe, plaintiff amended his complaint to identify the proper defendant as John "Bam-Bam" Doe. Plaintiff now seeks to amend the complaint a second time to identify Eric R. Jodoin as the defendant in this matter.

"Leave to amend a pleading shall be freely given when justice so requires, and should not be denied unless (1) the motion is filed after undue delay, (2) the movant acts in bad faith, (3) granting the leave to amend would prejudice the adverse parties or (4) the amendment sought will be futile." *Bray v. City of New York*, No. 04 Civ. 8255, 2004 U.S. Dist. LEXIS 24938, *2 (S.D.N.Y. December 13, 2004). The Court notes that leave to amend here is sought very early in the litigation process, and there is no evidence of undue delay, bad faith, or prejudice to the defendant. Accordingly, after due consideration of these factors, leave to amend the complaint is hereby granted.¹

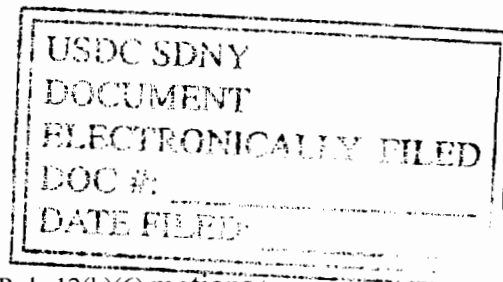
It is so ordered.

Dated: White Plains, New York

8/20/07, 2007

Stephen C. Robinson

Stephen C. Robinson, U.S.D.J.



¹ "[D]eterminations of futility are made under the same standard that govern Rule 12(b)(6) motions to dismiss". *Nettis v. Levitt*, 241 F.3d 186, 194 n.4 (2d Cir. 2001). Nevertheless, this Court's decision to grant leave to amend the complaint shall not prejudice any motion to dismiss that the defendant may wish to file after service of the summons and Second Amended Complaint.